

Tippecanoe County Drainage Board

Minutes

August 29, 2005

Delphine Anson #4

Landowner Hearing

Those present were:

Tippecanoe County Drainage Board President Ruth Shedd, Vice President John Knochel, member KD Benson, County Surveyor Steve Murray, Drainage Board Attorney Dave Luhman, Drainage Board Secretary Brenda Garrison and GIS Technician Shelli Muller.

Ruth Shedd opened the floor to Steve Murray. Reading from the Surveyor's Reconstruction Report he began; The Delphine Anson Regulated Drain was originally known as the Mary A. Fouts Ditch. The Anson was organized in 1903 in Tippecanoe Superior Court. The watershed area currently contains 1433.3 acres (rounded). A Petition for New Drainage from Oliver Henderson et al was filed in Superior Court, Cause No. 1928, on September 1949. The case was dismissed in June 1951. The report of the survey and viewers and construction plans prepared contained detailed information regarding the condition and location of the Anson Drain. The Surveyor noted there was valuable technical information in those documents and in 1950 the tile was obviously not functioning properly to the point a Reconstruction Petition had been presented. A maintenance fund of \$1.00 per acre was established on July 7, 1971 by the Tippecanoe County Drainage Board. The rate was increased twenty-five percent (25%) by the County Drainage Board on January 8th, 2003 as allowed by I.C. 36-9-27-42. I have personally walked, drove, talked with various landowners, and inspected the Anson Drain and observed the majority of the breakdowns, blowouts, erosion and spot excavations to examine the existing conditions. Based on my investigation, surveys and plan preparation it is my opinion that the best and cheapest method of reconstructing the Anson is as follows:

The main from the Station 72+50 to Station 59+50 at C.R. 100W through the wooded area is completely plugged with tree roots and silt and barely able to pass any water. This portion of the main needs to be replaced and the right of way needs to be cleared of trees. Branch No. 10, which hits the main at approximately Station 110+20, and Branches 12, 13, 14, 15, 16 and 35 are not currently functioning and the condition is poor. It has been assumed for cost estimation purposes that a 900 feet portion Branch No. 10 will be replaced, but not the Branches at this time. The Surveyor noted they were going to try at these two spots to open the tile up and get it flowing. This would help lower the water level in the wetlands at the southwest corner of 850N and 100W. This should assist in lowering the wetlands on Mr. Agees property North at 850N and also to enable the staff to inspect the condition of the tile. New surface inlets or standpipes would be installed at the terminus. Branch No. 3 appears to be in fair condition except for the portion North of C.R. 800 North. This portion is functioning but residential development in the area has overloaded the tile and homeowners in the area are reporting drainage problems. Surface work South of CR. 800N should help this problem by reducing the load on the tile. Shots were taken and 400-600 feet of surface work is planned to remove the high spot and allow the side ditches and surface swale north of CR. 800N to drain. This will relieve some of the pressure on the tile as well. After the completion of this work, if Branch #3 is still not functioning, it will possibly be replaced. The County Surveyor also recommends adding the open ditch from the outfall of the existing Anson tile to the existing culvert at CR 725N. This ditch section is in fair shape and needs spot cleaning and clearing. This will add approximately 2000 feet of open ditch channel to the Anson Regulated Drain. He recommends the drain width for this portion be 30 feet from the top of each bank. The main from the existing outfall approximately 2000 feet from C.R. 725N is in fair condition. It has been inspected through tile repairs and vent pipes which were installed on either side of the interstate and periodically along the route. The main from Station 59+50 at C.R. 100 West to the upper end of the main at Station 0+00 is in poor condition with some breakdowns. The tile appears to be partially clear, but due to the lack of flow East of C. R. 100 West it is not possible to determine how much of the existing tile will need to be replaced. It has been assumed for cost estimation purposes that this stretch of the main will need to be replaced. There are 16,075 feet of main tile and 20,421 feet of tile branches. Some original tile branches were not included in the Surveyor's Report when the fund was set up in 1971. Those branches were listed in this Surveyor's report as well. It is my opinion that there are not any damages sustained by any owner as a result of this reconstruction. I have considered all benefits accruing to each parcel of land and it is my opinion that the expenses of the proposed reconstruction will be less than the benefits accruing to the owners of the land benefited by the construction and the benefits are not excessive. It is my opinion each acre of land is benefited by the recommended rates per acre and that all tracts or lots are benefited by the per lot rates as recommended and that all tracts or lots are benefited by the minimum rates. He proposed the following: Reconstruction rates; \$10.00 minimum charge, \$30.00 per lot (a lot being 4.99 acres or less) and \$6.00 per acre. Running at the same time will be a periodic maintenance rate. That rate is as follows: \$5.00 minimum, \$10.00 per lot and \$2.00 per acre. This will result in an assessment total of \$15.00 minimum charge, \$40.00 per lot and \$8.00 per acre for a five-year reconstruction period. After the end of the five-year period, the rate will drop to a \$5.00 minimum charge, \$20.00 per lot and \$4.00 per acre for periodic maintenance. This fund should be allowed to build to a total of eight times the annual assessment. The Surveyor estimates that a sum of approximately \$49,000.00 is needed to complete the Reconstruction. The Surveyor estimates that a sum of approximately \$3300.00 is needed annually for periodic maintenance during the reconstruction period. After the five-year reconstruction period the Surveyor estimates that a sum of approximately \$6500.00 is needed annually for periodic maintenance and that fund should be allowed to build to an eight

year total. He then reviewed the assessment process on County Regulated Drain watersheds for the attendees. He stated in reviewing aerials from 1939 to 1963, the size of the various wetlands (specifically just west of 50W at approximately 780N as well as the corner of 850N and 100W) had increased substantially, as it was tilled and farmed in the historical aerials. The tile has continued to degrade. There is a section of the main tile completely plugged located at the woods west of 100W between 800N and 850N. That is why the upper end does not function well. He noted repair of this drain has been talked about a multitude of years and it was one of the two worse drains in the County at this time. He noted, while we know for sure where two problems lie, the remainder will not be known until the water table can be lowered and investigation done.

Ruth Shedd opened the floor at that time to the Public. Leon Hamil 7505 North 75E West Lafayette In. approached the Board. He stated he has three parcels of land that amounts to less than 2 acres. Due to that he will have to pay the minimum rate for each parcel. He asked if those parcels could be combined for assessment purpose only and be charged one rate as he felt it was not assessed equitably. In response to the Surveyor's inquiry, he noted one residence is located on the lots in question. The Surveyor stated it was the Board's decision, in past similar situations (such as Stockwell- one residence on multiple small lots) it could be combined for one rate. The Board agreed to combine the assessment to one lot assessment under the circumstance. Brice McCarty 1436 West 850N West Lafayette In. approached the Board and asked the Surveyor for an explanation of what maintenance meant in regards to drains. The Surveyor stated maintenance in Indiana Drainage Code basically was clearing trees, fixing blow holes or suck holes, breakdowns, replacing short (20 –100 ft) tile, in other words whatever needs to be done to keep the tile functioning. No chemicals or routers were used, as the tile in the wooded area was plugged solid. Homer Shaffer 8448 North Meridian Line Road West Lafayette In. approached the Board. Homer stated his concern was the work done on the Anson Farm by the landowner as it has "dumped" water on the Agees farm. He showed the Board pictures indicating the placement of their new tile and the cut through the County tile. He stated they put a waterway over the top of the tile. He stated he would like the landowner to be required by the Board to hook into the County tile to eliminate the "dumping of their water on adjoining landowners. Steve stated three repairs had been in that vicinity where the County tile had been cut out with their new under drain. He stated they did lay the new plastic tile right through the County tile and as the work progressed the County would address that issue. Currently the stretch of tile East of 100W is completely plugged. Tim Levis 8300 North 100W West Lafayette In. approached the Board. He asked the Surveyor if the construction of the interstate caused the situation to worsen. More impervious area is draining into the system, however where they crossed the existing tile or tile branches the Surveyor did not feel they had. The existing tile was replaced upon construction of the interstate and to his knowledge they did not add to the poor condition of the tile. Tom Yonker 110E 800N West Lafayette In. asked if the size of tiles or elevation would be upgraded crossing 800N. The Surveyor stated by Ordinance, installation and maintenance and repair was the responsibility of the property owner. County Highway has the authority to force a property owner to correct improper installation of driveway pipes. The Surveyor replied once the work was done he felt the flow across 800N would improve. He expected the tile system to function as it was originally designed after reconstruction was complete. He also noted any landowners that had participated in farm programs through the SWCD or NRCS offices should contact Marc Eastman at the NRCS office.

At that time the Attorney read the Findings and Order of the Delphine Anson #4 Regulated Drain concerning the Reconstruction and Periodic Maintenance. The Delphine Anson Regulated Drain was referred to the County Surveyor for a Reconstruction Report on April 11, 2005. This matter came to be heard upon the reconstruction report and schedule of assessments prepared by the Tippecanoe County Surveyor and filed with the Board. Certificates of mailing of notice of the time and place of the hearing, to all affected landowners, were filed. Notices of publication of the time and place of the hearing, in the Journal & Courier and the Lafayette Leader, were filed. Written Remonstrance were filed. Evidence was presented by the Tippecanoe County Surveyor and many of those landowners affected were present. A list of those present is filed herewith. After consideration of all the evidence, the Board does now find that: The reconstruction report of the Tippecanoe County Surveyor and schedule of assessments were filed in the office of the Surveyor on July 29, 2005. Notice of filing of the reconstruction report and the schedule of assessments and their availability for inspection and the time and place of this hearing was mailed to all those landowners affected more than thirty (30) and less than forty (40) days before the date of this hearing. Notice of the time and place of this hearing was given by publication in the Journal & Courier and the Lafayette Leader, newspapers of general circulation in Tippecanoe County, Indiana more than ten (10) days prior to this hearing. The legal drain consists of approximately 16,075 feet of main tile and approximately 20,421 feet of tile branches. (See (6)) The present condition of the ditch and tile branches are in need of repair as described in (6). The ditch needs the following reconstruction at present: The main from the Station 72+50 to Station 59+50 at C.R. 100W is completely plugged with tree roots and silt. This portion of the main needs to be replaced and the right of way needs to be cleared of trees. Branch No. 10, which ties into the main at approximately Station 110+20, and Branches 12, 13, 14, 15, 16 and 35 are not currently functioning and the condition is poor. It has been assumed for cost estimation purposes that a 900-foot portion Branch No. 10 will be replaced, but not the Branches of Branch No. 10 at this time. Branch No. 3 appears to be in fair condition except for the portion North of C.R. 800N. This portion is functioning but residential development in the area has overloaded the tile and homeowners in the area are reporting drainage problems. Surface work South and North of CR. 800N should help this problem by reducing the load on the tile. The County Surveyor also recommends adding the open ditch from the outfall of the existing Anson tile to the existing culvert at CR 725N. This ditch section is in fair shape and needs spot cleaning and clearing. This will add approximately 2000 feet of open ditch channel to the Anson Regulated Drain. The

Surveyor also recommends that the Regulated Drain right-of-way for this portion of the Anson be 30 feet from the top of each bank. Open Ditch total length from tile outfall to CR 725N culvert is approximately 2000 feet. The main from the existing outfall approximately 2000 feet from C.R.725N to Station 72+50 near the East line of the Northwest quarter of the Northwest quarter of Section 7 is in fair condition. The main from Station 59+50 at C.R.100 West to the upper end of the main at Station 0+00 is in poor condition with some breakdowns. The tile appears to be partially clear, but due to the lack of flow East of C. R.100West it is not possible to determine how much of the existing tile will need to be replaced. It has been assumed for cost estimation purposes that this stretch of the main will need to be replaced. There is now \$4548.70 owed to the General Drain Fund for past maintenance on this ditch. The ditch and tile branches covered by this Findings and Order drain 1432.8410(amended) acres. The overall Delphine Anson watershed contains 1432.8410 (amended) acres. Estimated total cost of reconstruction is \$49,000.00. The annual cost of maintenance during reconstruction is \$3300.00 and the annual cost of maintenance post reconstruction is \$6500.00. Estimated annual benefits to the land drained exceed the repair and maintenance costs. A fund for reconstruction, annual maintenance during reconstruction and annual maintenance post reconstruction should be established. In order to provide the necessary reconstruction and maintenance funds, the annual assessment per acre and lot benefited should be: Reconstruction: \$10.00 minimum charge, \$30.00 per lot and \$6.00 per acre. Maintenance during reconstruction: \$5.00 minimum, \$10.00 per lot and \$2.00 per acre. This will result in an assessment total of \$15.00 minimum charge, \$40.00 per lot and \$8.00 per acre for a five-year period. Maintenance post reconstruction: \$5.00 minimum, \$20.00 per lot and \$4.00 per acre for a period of eight times the annual assessment. The assessment list filed herewith should be amended. The assessment list filed here as so amended is fair and equitable and should be adopted. The assessment should be collected with the 2006 taxes. NOW, THEREFORE, IT IS ORDERED THAT: The Board has determined that the costs, damages (if any) and expenses of the proposed reconstruction and the periodic maintenance cost will be less than the benefits accruing to the owners of the land benefited. A fund for reconstruction, maintenance during reconstruction and a maintenance post reconstruction should be established. The recommended rates are as follows: Reconstruction; \$10.00 minimum charge, \$30.00 per lot (4.99 acres or less) and \$6.00 per acre. Periodic Maintenance During Reconstruction: \$5.00 minimum, \$10.00 per lot and \$2.00 per acre. Resulting in an assessment total of \$15.00 minimum charge, \$40.00 per lot and \$8.00 per acre for a five-year period. After the end of the five-year period, the rate will drop to a \$5.00 minimum charge, \$20.00 per lot and \$4.00 per acre for periodic maintenance. The fund should be allowed to build to a total of eight times the annual assessment. The Schedule of Assessments filed herewith are adopted and made a part thereof. The first annual assessment shall be collected with the 2006 taxes. Dated at Lafayette, Indiana this 29th day of August 2005, followed by signature lines for the Drainage Board.

John Knochel made a motion to approve the Findings and Order for the Reconstruction and Periodic Maintenance Rates of the Delphine Anson Regulated Drain #4. KD Benson seconded the motion. The Findings and Order for the Reconstruction and Periodic Maintenance Rates of the Delphine Anson Regulated Drain #4 was approved and adopted by the Drainage Board. KD then referred to the written remonstrance. The Board Attorney read the letter into the minutes. A written remonstrance from Howard L. & Emily Whiteman 445 E 800N West Lafayette Indiana 47906 was received by the Surveyor. The Attorney read the letter as follows: Mr. Murray, this letter is regarding the above referenced matter (Reconstruction of Anson Drain) Due to the fact that no evidence or proof was provided in your notice explaining the need for this project and how this project will directly benefit us as property owners, we feel that the benefits assessed against our land are excessive and, therefore, we object to the reconstruction of the Anson Drain. Please convey our objection to the Drainage Board at the hearing on August 29, 2005. If you have any questions, you may contact us -followed by their phone number. Thank you for your cooperation. Sincerely, signed Howard L. Whiteman, Emily L. Whiteman and owners of Pt NW Sec 17 TWP 24 R4 2.569. The Surveyor stated as a rule he does not send a copy of the Surveyor's Report with the landowners' notification. It is stated in the notice the said report is available for inspection and review and has been filed. The report generally contains the reason for the rates and the work needed. He then informed the Board, based on a recent appeals court decision Indiana Department of Transportation may not be subject to drain assessments in the future. He felt if the case was upheld, legislation would be passed due to the fact County, State highways and streets have always paid on ditch assessments. He felt legislation through the Indiana Counties Association would get through to rectify that. The public relations person at the INDOT's Indianapolis central office informed him the letter sent out by INDOT Crawfordsville district to all treasurers in that district was premature. They had not made an absolute final decision that they would not pay drain assessments. The Surveyor stated that this would certainly have an effect on the benefited acreage. At that time Ruth Shedd asked for any comment. John Knochel made a motion to adjourn. KD Benson seconded the motion. The meeting was adjourned.

Ruth Shedd, President

John Knochel, Vice President

KD Benson, Member

Brenda Garrison, Secretary